

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

CHERYL GRANT,

Plaintiff,

v.

Case No. 18-cv-1304-pp

NANCY A. BERRYHILL,

Defendant.

**ORDER GRANTING MOTION FOR LEAVE TO PROCEED WITHOUT
PREPAYMENT OF THE FILING FEE (DKT. NO. 3)**

On August 23, 2018, the plaintiff filed a complaint seeking judicial review of a final administrative decision denying her claim for disability insurance benefits under the Social Security Act. Dkt. No. 1. The plaintiff also filed a motion for leave to proceed without prepaying the filing fee. Dkt. No. 3.

To allow the plaintiff to proceed without paying the filing fee, the court first must decide whether the plaintiff has the ability to pay the filing fee, and if not, it must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and 1915(e)(2)(B)(i).

The court concludes that the plaintiff does not have the ability to pay the filing fee. The plaintiff's request to proceed without paying the fee says that she is not employed, not married and has no dependents. Dkt. No. 3 at 1. She lists income of \$194 per month from food stamps, and indicates that she has no other income. Id. at 2, 4. The plaintiff has no cash on hand or in a checking or

savings account, id. at 3, and she owns no other real property of value, id. at 4. In addition, the plaintiff states that a “friend pays housing and other related expenses” for her. Id. The court concludes from that information that the plaintiff has shown that she cannot pay the \$350 filing fee and \$50 administrative fee.

The next step is to determine whether the case is frivolous. A case is frivolous if there is no arguable basis for relief either in law or in fact. Denton v. Hernandez, 504 U.S. 25, 31 (1992) (quoting Nietzke v. Williams, 490 U.S. 319, 325 (1989); Casteel v. Pieschek, 3 Fed. 1050, 1056 (7th Cir. 1993)). A person may obtain district court review of a final decision of the Commissioner of Social Security. 42 U.S.C. §405(g). The district court must uphold the Commissioner’s final decision if the Commissioner used the correct legal standards and the decision is supported by substantial evidence. See Roddy v. Astrue, 705 F.3d 631, 636 (7th Cir. 2013).

The plaintiff’s complaint alleges that the conclusions and findings of fact of the defendant in her denial of benefits are not supported by substantial evidence and are contrary to law and regulation. At this early stage in the case, and based on the information in the plaintiff’s complaint, the court concludes that there may be a basis in law or in fact for the plaintiff’s appeal of the Commissioner’s decision, and that the appeal may have merit, as defined by 28

U.S.C. §1915(e)(2)(B)(i).

The court **GRANTS** the plaintiff's motion for leave to proceed without paying the filing fee. Dkt. No. 3.

Dated in Milwaukee, Wisconsin this 28th day of August, 2018.

BY THE COURT:



HON. PAMELA PEPPER
United States District Judge